

Danny J. Horen, Esq.  
NV Bar No. 13153  
Kazerouni Law Group, APC  
7854 W. Sahara Avenue  
Las Vegas, NV 89117  
Telephone: (800) 400-6808x7  
Facsimile: (800) 520-5523  
danny@kazlg.com

Tara Newbery, Esq.  
NV Bar No. 10696  
Connaghan | Newberry  
7854 W. Sahara Avenue  
Las Vegas, NV 89117  
Telephone: (702) 608-4232  
Facsimile: (702) 946-1830  
tnewberry@cnlawlv.com

*Attorneys for Plaintiffs*  
Robert Mallory, Karen Mallory  
and Alan Willey

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

<b>ROBERT MALLORY, KAREN MALLORY and ALAN WILLEY, on behalf of themselves and all others similarly situated,</b>	)	<b>Case No.: 2:14-cv-00396-KJD-VCF</b>
	)	
<b>Plaintiffs,</b>	)	<b>FIRST AMENDED COMPLAINT</b>
	)	<b>FOR DAMAGES PURSUANT TO</b>
<b>v.</b>	)	<b>THE FAIR DEBT COLLECTION</b>
	)	<b>PRACTICES ACT, 15 U.S.C. § 1692,</b>
<b>MCCARTHY HOLTHUS, LLP,</b>	)	<b>ET SEQ.; NRS 598 ET SEQ.; AND</b>
	)	<b>NRS 41.600 ET SEQ.</b>
<b>Defendant.</b>	)	<b>[CLASS ACTION]</b>
	)	<b>JURY TRIAL DEMANDED</b>
	)	
	)	

///

///

## INTRODUCTION

1. The United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy. Congress wrote the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 et seq., to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.
2. ROBERT MALLORY, KAREN MALLORY, and ALAN WILLEY (jointly as “Plaintiffs”), by Plaintiffs’ attorneys, brings this action to challenge the actions of MCCARTHY HOLTHUS, LLP (“Defendant”) with regard to attempts by Defendant, debt collectors, to unlawfully and abusively collect a debt allegedly owed by Plaintiffs, and this conduct caused Plaintiffs damages.
3. Plaintiffs make these allegations on information and belief, with the exception of those allegations that pertain to Plaintiffs, or to Plaintiffs’ counsel, which Plaintiffs allege on personal knowledge.

- 1 4. While many violations are described below with specificity, this Complaint  
2 alleges violations of the statute cited in its entirety.
- 3 5. Unless otherwise stated, all the conduct engaged in by Defendant took place  
4 in Nevada.
- 5 6. Any violations by Defendant were knowing, willful, and intentional, and  
6 Defendant did not maintain procedures reasonably adapted to avoid any such  
7 violation.  
8
- 9 7. Unless otherwise indicated, the use of Defendant's name in this Complaint  
10 includes all agents, employees, officers, members, directors, heirs,  
11 successors, assigns, principals, trustees, sureties, subrogees, representatives,  
12 and insurers of Defendant's named.  
13  
14

15 **JURISDICTION AND VENUE**

- 16 8. This Court has federal question jurisdiction because this case arises out of  
17 violation of federal law. 15 U.S.C. §1692 *et seq.*; *Smith v. Community*  
18 *Lending, Inc.*, 773 F.Supp.2d 941, 946 (D. Nev. 2011). Jurisdiction arises for  
19 Plaintiffs' supplemental state claims under 28 U.S.C. § 1367.  
20
- 21 9. This action arises out of Defendant's violations of: (i) the Fair Debt  
22 Collection Practices Act, 15 U.S.C. §§ 1692-1692(p) ("FDCPA"); (ii) the  
23 Nevada Deceptive Trade Practices Act, NRS 598 *et seq.* ("NDTPA") and,  
24 (iii) NRS 41.600 *et seq.*  
25  
26  
27  
28

1 10. Venue is proper in the United States District Court for the District of Nevada  
2 pursuant to 28 U.S.C. § 1391(b) because Plaintiffs are residents of Clark  
3 County, the State of Nevada and Defendant is subject to personal  
4 jurisdiction in the County of Clark, State of Nevada as they conduct business  
5 there, and the conduct giving rise to this action occurred in Nevada. 28  
6 U.S.C. § 1391(b)(2). Further, Defendant is registered with the Nevada  
7 Secretary of State with a registered agent of service in Las Vegas, Nevada.  
8  
9

#### 10 **PARTIES**

11 11. Plaintiffs are natural persons residing in the County of Clark, State of  
12 Nevada, from whom a debt collector sought to collect a consumer debt  
13 which was due and owing or alleged to be due and owing from Plaintiffs. In  
14 addition, Plaintiffs are “consumers” as that term is defined by 15 U.S.C. §  
15 1692a(3).  
16

17 12. Plaintiffs are informed and believe, and thereon allege, that Defendant is,  
18 and at all times mentioned herein was, a limited liability partnership  
19 operating in Nevada, whose primary address is in San Diego, California.  
20

21 13. Plaintiffs are informed and believe, and thereon allege, that Defendant, in  
22 the ordinary course of business, regularly, on behalf of themselves or others,  
23 engage in “debt collection” and is therefore a “debt collector” as the terms  
24 are defined by 15 U.S.C. § 1692a(6).  
25  
26  
27  
28

1 14. Defendant is a multi-state law firm and debt collector, offering debt  
2 collection services in various industries, including but not limited to  
3 foreclosure debts allegedly owed by consumers.

4  
5 15. Plaintiffs are informed and believe, and thereon allege, that the alleged debts  
6 are regarding mortgage debts, which is money, property or their equivalent,  
7 due or owing or alleged to be due or owing from a natural person by reason  
8 of a consumer credit transaction. Because this alleged debt is for mortgage  
9 debts, which are primarily for personal, family, or household purposes, this  
10 action arises out of a “debt” as that term is defined by 15 U.S.C. 1692a(5).  
11  
12

13 **FACTUAL ALLEGATIONS**

14 16. At all times relevant, Plaintiffs were individuals residing within the State of  
15 Nevada.

16 17. Plaintiffs are informed and believe, and thereon allege, that at all times  
17 relevant, Defendant conducted business in the State of Nevada.  
18

19 **FACTS PERTAINING TO**  
20 **ROBERT MALLORY AND KAREN MALLORY**

21 18. Plaintiffs ROBERT MALLORY and KAREN MALLORY, who are greater  
22 than 60 years old, are “elderly persons” as defined in NRS 598.0933.  
23

24 19. Sometime before December 2013, ROBERT MALLORY and KAREN  
25 MALLORY allegedly obtained a mortgage loan to purchase a home in Las  
26 Vegas. This debt was money, property, or their equivalent, which is due or  
27 owing, or alleged to be due or owing, from a natural person to another  
28

1 person and were therefore “debt(s)” and a “consumer debt” as the terms are  
2 defined by 15 U.S.C. § 1692(a)(6).

3 20. Sometime thereafter, ROBERT MALLORY and KAREN MALLORY  
4 allegedly fell behind on mortgage payments, causing the servicer of the loan  
5 to report it in default.  
6

7 21. ROBERT MALLORY and KAREN MALLORY take no position as to the  
8 validity of the alleged post-default debt.  
9

10 22. As a result of the alleged default, the alleged debt is classified as money,  
11 property, or their equivalent, which is due or owing, or alleged to be due or  
12 owing, from a natural person to another person and were therefore “debt(s)”  
13 and a “consumer debt” as the terms are defined by 15 U.S.C. § 1692(a)(6),  
14 and actions taken to collect the debt constitutes an act of debt collection,  
15 subject to the FDCPA.  
16

17 23. Subsequently, the alleged post-default debt was allegedly assigned, placed or  
18 otherwise transferred, to Defendant for collection.  
19

20 24. On or about December 10, 2013, Defendant or its agent/s began contacting  
21 ROBERT MALLORY and KAREN MALLORY via written letter in attempt  
22 to collect the alleged debts. This letter was a “communication” as defined in  
23 15 U.S.C. § 1692(a)(2).  
24  
25  
26  
27  
28

1 25. Upon information and belief, ROBERT MALLORY and KAREN  
2 MALLORY allege this was Defendant's initial contact with Plaintiffs  
3 regarding the alleged debt owed.  
4

5 26. Defendant's letter to ROBERT MALLORY and KAREN MALLORY  
6 demanded repayment of the alleged post-default debt totaling \$96,437.03 to  
7 "reinstate and avoid the foreclosure." Defendant's attempt to collect the  
8 alleged post-default debt constituted debt collection.  
9

10 27. Defendant's letter to ROBERT MALLORY and KAREN MALLORY  
11 included the following:  
12

13 **NOTICE: THIS OFFICE MAY BE CONSIDERED A DEBT**  
14 **COLLECTOR AND THIS MAY BE CONSIDERED AS AN**  
15 **ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION**  
**added)**

16 28. Defendant, identifying itself and acting as a debt collector by attempting to  
17 collect an alleged debt post-default, failed to include in its letter to ROBERT  
18 MALLORY and KAREN MALLORY the proper notices as required by the  
19 FDCPA in connection with attempting to collect a debt.  
20

21 29. Defendant failed to provide ROBERT MALLORY and KAREN  
22 MALLORY with the language required under the FDCPA, 15 U.S.C. §  
23 1692g(a), within 5 days of the initial contact regarding the alleged debt.  
24 Such failure thus violated 15 U.S.C. § 1692g(a).  
25  
26  
27  
28

1 30. Defendant's letter to ROBERT MALLORY and KAREN MALLORY failed  
2 to identify to whom the alleged debt was owed, as required, thus violating 15  
3 U.S.C. § 1692g(a)(2).  
4

5 31. Defendant's letter to ROBERT MALLORY and KAREN MALLORY failed  
6 to identify Plaintiffs' legal rights to dispute the validity of the debt as  
7 required, thus violating 15 U.S.C. § 1692g(a)(4).  
8

9 32. Moreover, Defendant's letter to ROBERT MALLORY and KAREN  
10 MALLORY failed to notify them, as required under 15 U.S.C. §  
11 1692g(a)(3), that the alleged debt would be assumed valid unless they  
12 disputed the debt within 30 days of receipt of the notice. Such a failure  
13 violated 15 U.S.C. § 1692g(a)(3).  
14

15 33. Finally, Defendant's letter to ROBERT MALLORY and KAREN  
16 MALLORY failed to include a statement, as required under 15 U.S.C. §  
17 1692g(a)(5), that upon their request within the 30-day period, Defendant  
18 would provide ROBERT MALLORY and KAREN MALLORY with the  
19 name and address of the original creditor, if different from the current  
20 creditor. Defendant's failure violated 15 U.S.C. § 1692g(a)(5).  
21

22 34. Through this conduct, Defendant violated 15 U.S.C. § 1692e by using  
23 deceptive and misleading means to collect Plaintiffs' alleged debt.  
24

25 35. Through this conduct, Defendant violated 15 U.S.C. § 1692e(10) by using  
26 deceptive means to collect Plaintiffs' alleged debt.  
27  
28



1 36. Through this conduct, Defendant violated 15 U.S.C. § 1692f by using  
2 unconscionable and unfair means in attempt to collect the alleged debts  
3 owed by Plaintiffs.  
4

5 37. NRS 598.0915(15) prohibits knowingly making a false representation in a  
6 transaction. By acting as a debt collector, demanding repayment to “reinstate  
7 and avoid the foreclosure,” and failing to include the required notices under  
8 the FDCPA, Defendant knowingly made a false representation as to  
9 Plaintiffs’ rights and liabilities with regard to a transaction. Thus, Defendant  
10 violated NRS 598.0915(15).  
11

12 38. NRS 598.0923(3) states that a “deceptive trade practice” occurs when in the  
13 course of his or her business or occupation he or she knowingly violates a state or  
14 federal statute or regulation relating to the sale or lease of goods or services.  
15 Through its numerous violations of the FDCPA, a federal statute, and the  
16 NDTPA, a Nevada statute, Defendant violated NRS 598.0923(3).  
17

18 39. NRS 41.600(2)(e) defines “consumer fraud” as a “deceptive trade practice as  
19 defined in NRS 598.0915 to 598.0925, inclusive.” Thus, Defendant’s violations  
20 of NRS 598.0915(15) and NRS 598.0923(3), described herein, constitute  
21 “consumer fraud” under NRS 41.600(2)(e).  
22

23 40. NRS 598.0973 provides a civil penalty for engaging in deceptive trade  
24 practice directed toward elderly person or person with disability. Pursuant to  
25 NRS 598.0933, “Elderly person” means a person who is 60 years of age or  
26  
27  
28

1 older. ROBERT MALLORY and KAREN MALLORY are both over the  
2 age of 60, and therefore are “elderly persons.” Through its violations of NRS  
3 598 *et seq.*, Defendant violated NRS 598.0973 by engaging in a deceptive  
4 trade practice, as defined in NRS 598.0915 to NRS 598.0925, against  
5 “elderly persons” ROBERT MALLORY and KAREN MALLORY.  
6

7  
8 **FACTS PERTAINING TO**  
9 **ALAN WILLEY**

10 41. Plaintiff ALAN WILLEY, who is greater than 60 years old, is an “elderly  
11 person” as defined in NRS 598.0933.

12 42. Sometime before December 2013, ALAN WILLEY allegedly obtained a  
13 mortgage loan to purchase a home in Henderson, Nevada.

14 43. Sometime thereafter, ALAN WILLEY allegedly fell behind on mortgage  
15 payments, causing the servicer of the loan to report it in default.  
16

17 44. As a result of the alleged default, the alleged debt is classified as money,  
18 property, or their equivalent, which is due or owing, or alleged to be due or  
19 owing, from a natural person to another person and were therefore “debt(s)”  
20 and a “consumer debt” as the terms are defined by 15 U.S.C. § 1692(a)(6),  
21 and actions taken to collect the debt constitutes an act of debt collection,  
22 subject to the FDCPA.  
23

24 45. ALAN WILLEY takes no position as to the validity of the alleged post-  
25 default debt.  
26  
27  
28

1 46. Subsequently, the alleged post-default debt was allegedly assigned, placed or  
2 otherwise transferred, to Defendant for collection.

3 47. On or about June 22, 2013, Defendant or its agent/s began contacting ALAN  
4 WILLEY via written letter in attempt to collect the alleged debt. This letter  
5 was a “communication” as defined in 15 U.S.C. § 1692(a)(2).  
6

7 48. Upon information and belief, Plaintiffs allege this was Defendant’s initial  
8 contact with ALAN WILLEY regarding the alleged debt owed.  
9

10 49. Defendant’s letter to ALAN WILLEY demanded repayment of the alleged  
11 post-default debt totaling \$16,832.68, to “reinstate and avoid the  
12 foreclosure.” Defendant’s attempt to collect the alleged debt post-default  
13 constituted debt collection act.  
14

15 50. Defendant’s letter to ALAN WILLEY included the following:  
16

17 **NOTICE: THIS MAY BE CONSIDERED AS AN ATTEMPT TO**  
18 **COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL**  
**BE USED FOR THAT PURPOSE.** (emphasis added)

19 51. Defendant, identifying itself and acting as a debt collector by attempting to  
20 collect an alleged debt post-default, failed to include in its letter the proper  
21 notices as required by the FDCPA in connection with attempting to collect a  
22 debt.  
23

24 52. Defendant failed to provide ALAN WILLEY with the language required  
25 under the FDCPA, 15 U.S.C. § 1692g(a), within 5 days of the initial contact  
26 regarding the alleged debt, thus violating the FDCPA.  
27  
28

1 53. Defendant's letter to ALAN WILLEY failed to identify to whom the alleged  
2 debt was owed, as required under 15 U.S.C. § 1692g(a)(2), thus violating the  
3 FDCPA.

4  
5 54. Defendant's letter to ALAN WILLEY failed to identify ALAN WILLEY's  
6 legal rights to dispute the validity of the debt as required, thus violating 15  
7 U.S.C. § 1692g(a)(4).

8  
9 55. Moreover, Defendant's letter to ALAN WILLEY failed to notify ALAN  
10 WILLEY, as required under 15 U.S.C. § 1692g(a)(3), that the alleged debt  
11 would be assumed valid unless he disputed the debt within 30 days of receipt  
12 of the notice. Such a failure violated 15 U.S.C. § 1692g(a)(3).

13  
14 56. Finally, Defendant's letter to ALAN WILLEY failed to include a statement,  
15 as required under 15 U.S.C. § 1692g(a)(5), that upon his request within the  
16 30-day period, Defendant would provide ALAN WILLEY with the name  
17 and address of the original creditor, if different from the current creditor.  
18 Defendant's failure violated 15 U.S.C. § 1692g(a)(5).

19  
20  
21 57. Through this conduct, Defendant violated 15 U.S.C. § 1692e by using  
22 deceptive and misleading means to collect Plaintiffs' alleged debt.

23  
24 58. Through this conduct, Defendant violated 15 U.S.C. § 1692e(10) by using  
25 deceptive means to collect Plaintiffs' alleged debt.

1 59. Through this conduct, Defendant violated 15 U.S.C. § 1692f by using  
2 unconscionable and unfair means in attempt to collect the alleged debts  
3 owed by Plaintiffs.

4  
5 60. NRS 598.0915(15) prohibits knowingly making a false representation in a  
6 transaction. By acting as a debt collector, demanding repayment to “reinstate  
7 and avoid the foreclosure,” and failing to include the required notices under  
8 the FDCPA, Defendant knowingly made a false representation as to  
9 Plaintiffs’ rights and liabilities with regard to a transaction. Thus, Defendant  
10 violated NRS 598.0915(15).  
11

12  
13 61. NRS 598.0923(3) states that a “deceptive trade practice” occurs when in the  
14 course of his or her business or occupation he or she knowingly violates a state or  
15 federal statute or regulation relating to the sale or lease of goods or services.  
16 Through its numerous violations of the FDCPA, a federal statute, and the  
17 NDTPA, a Nevada statute, Defendant violated NRS 598.0923(3).  
18

19 62. NRS 41.600(2)(e) defines “consumer fraud” as a “deceptive trade practice as  
20 defined in NRS 598.0915 to 598.0925, inclusive.” Thus, Defendant’s violations  
21 of NRS 598.0915(15) and NRS 598.0923(3), described herein, constitute  
22 “consumer fraud” under NRS 41.600(2)(e).  
23

24  
25 63. NRS 598.0973 provides a civil penalty for engaging in deceptive trade  
26 practice directed toward elderly person or person with disability. Pursuant to  
27 NRS 598.0933, “Elderly person” means a person who is 60 years of age or  
28

1 older. ALAN WILLEY is over the age of 60, and therefore is an “elderly  
2 person.” Through its violations of NRS 598 *et seq.*, Defendant violated NRS  
3 598.0973 by engaging in a deceptive trade practice, as defined in NRS  
4 598.0915 to NRS 598.0925, against “elderly person” ALAN WILLEY.  
5

#### 6 CLASS ACTION ALLEGATIONS

7 64. Plaintiffs bring this action on behalf of themselves and on behalf of all  
8 others similarly situated (the “Class” and “Subclass”).  
9

10 65. Plaintiffs represent, and are members of the Class, consisting of:

11  
12 All persons with addresses within Nevada to whom  
13 Defendant sent an initial written communication  
14 between the date of the filing of this action and one  
15 year preceding, which was not returned undeliverable  
16 by the United States Postal Service, and was  
17 attempting to collect a debt and failed to include a  
18 required notice under 15 U.S.C. § 1692g and failed  
19 within 5 days of sending the initial written  
20 communication to provide that person with the notice  
21 required under 15 U.S.C. § 1692g.

22 66. Plaintiffs represent, and are members of the Subclass, consisting of:

23 All persons over the age of 60, with addresses within  
24 Nevada to whom Defendant sent an initial written  
25 communication between the date of the filing of this  
26 action and four years preceding, which was not  
27 returned undeliverable by the United States Postal  
28 Service, and was attempting to collect a debt and  
failed to include a required notice under 15 U.S.C. §  
1692g and failed within 5 days of sending the initial  
written communication to provide that person with  
the notice required under 15 U.S.C. § 1692g.

1 67. Defendant and its employees or agents are excluded from the Class and  
2 Subclass. Plaintiffs do not know the number of members in the Class and  
3 Subclass, but believe the Class and Subclass members number in the  
4 hundreds, if not thousands. This matter should therefore be certified as a  
5 Class action to assist in the expeditious litigation of this matter.  
6  
7

8 68. Plaintiffs and members of the Class and Subclass were harmed by the acts  
9 of Defendant in at least the following ways: Defendant, either directly or  
10 through its agents, engaged in illegal and deceptive collection practices,  
11 when it failed to provide the required notices under 15 U.S.C. § 1692g(a)(3-  
12 5). Plaintiffs and the Class and Subclass members were damaged thereby.  
13  
14

15 69. This suit seeks only damages for recovery of statutory damages on behalf of  
16 the Class and Subclass, and it expressly is not intended to request any  
17 recovery for personal injury and claims related thereto. Plaintiffs reserve the  
18 right to expand the Class and Subclass definition to seek recovery on behalf  
19 of additional persons as warranted as facts are learned in further  
20 investigation and discovery.  
21  
22

23 70. The joinder of the Class and Subclass members is impractical and the  
24 disposition of their claims in the Class action will provide substantial  
25 benefits both to the parties and to the court. The Class and Subclass can be  
26 identified through Defendant's records or Defendant's agents' records.  
27  
28

71. There is a well-defined community of interest in the questions of law and

1 fact involved affecting the parties to be represented. The questions of law  
2 and fact to the Class and Subclass predominate over questions which may  
3 affect individual Class and Subclass members, including the following:

- 4
- 5 a. Whether, within the one year prior to the filing of this Complaint,
- 6 Defendant or its agents sent to the Class any written initial debt
- 7 collection letters that failed to include the required notices under 15
- 8 U.S.C. § 1692g(a)(3-5);
- 9
- 10 b. Whether, after failing to include the notices required under 15 U.S.C.
- 11 § 1692g, Defendant or its agents failed to provide the required
- 12 notices to the Class members within 5 days, as required under 15
- 13 U.S.C. § 1692g(a)(3-5);
- 14
- 15 c. Whether, within four years prior to the filing of this Complaint,
- 16 Defendant or its agents sent to the Subclass any written initial debt
- 17 collection letters that failed to include the required notices under 15
- 18 U.S.C. § 1692g(a)(3-5);
- 19
- 20
- 21 d. Whether, after failing to include the notices required under 15 U.S.C.
- 22 § 1692g, Defendant or its agents failed to provide the required
- 23 notices to the Subclass members within 5 days, as required under 15
- 24 U.S.C. § 1692g(a)(3-5), and
- 25
- 26 e. Whether Plaintiffs and the Class and Subclass members were
- 27 damaged thereby, and the extent of damages for such violation.
- 28



1 f. Whether Defendant maintains policies and procedures sufficient to  
2 satisfy Defendant's bona fide error affirmative defense.

3 72. As persons that received at least one debt collection letter that failed to  
4 include the notice required under 15 U.S.C. § 1692g, and then did not  
5 within 5 days of the initial communication, receive the notice required  
6 under 15 U.S.C. § 1692g(a), Plaintiffs are asserting claims that are typical  
7 of the Class. Plaintiffs will fairly and adequately represent and protect the  
8 interest of the Class in that Plaintiffs have no interests antagonistic to any  
9 member of the Class.

10 73. As persons over the age of 60 that received at least one debt collection letter  
11 that failed to include the notice required under 15 U.S.C. § 1692g, and then  
12 did not within 5 days of the initial communication, receive the notice  
13 required under 15 U.S.C. § 1692g(a), Plaintiffs are asserting claims that are  
14 typical of the Subclass. Plaintiffs will fairly and adequately represent and  
15 protect the interest of the Subclass in that he have no interests antagonistic  
16 to any member of the Subclass.

17 74. Plaintiffs and the members of the Class and Subclass have all suffered  
18 irreparable harm as a result of the Defendant's unlawful and wrongful  
19 conduct. Absent a class action, the Class and Subclass will continue to face  
20 the potential for irreparable harm. In addition, these violations of law will  
21 be allowed to proceed without remedy and Defendant will likely continue

1 such illegal conduct. Because of the size of the individual Class and  
2 Subclass member's claims, few, if any, Class and Subclass members could  
3 afford to seek legal redress for the wrongs complained of herein.  
4

5 75. Plaintiffs have retained counsel experienced in handling class action claims  
6 and claims involving violations of the Fair Debt Collection Practices Act.  
7

8 76. A class action is a superior method for the fair and efficient adjudication of  
9 this controversy. Class-wide damages are essential to induce Defendant to  
10 comply with federal and Nevada law. The interest of Class and Subclass  
11 members in individually controlling the prosecution of separate claims  
12 against Defendant is small because the maximum statutory damages in an  
13 individual action for FDCPA violations are minimal. Management of these  
14 claims is likely to present significantly fewer difficulties than those  
15 presented in many class claims.  
16  
17

18 77. Defendant has acted on grounds generally applicable to the Class and  
19 Subclass, thereby making appropriate final declaratory relief with respect to  
20 the Class and Subclass as a whole.  
21

22 **FIRST CAUSE OF ACTION**  
23 **VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT**  
24 **15 U.S.C. §§ 1692-1692(P) (FDCPA)**

25 78. Plaintiffs incorporate by reference all of the above paragraphs of this  
26 Complaint as though fully stated herein.  
27  
28

1 79. The foregoing acts and omissions constitute numerous and multiple  
2 violations of the FDCPA.

3 80. As a result of each and every violation of the FDCPA, the named Plaintiffs  
4 are entitled to damages of \$1,000 and such amount as the court may allow  
5 for all other class members, not to exceed the lesser of \$500,000 or 1 per  
6 centum of the net worth of the debt collector, pursuant to 15 U.S.C. §  
7 1692k(a)(2)(B); and reasonable attorney's fees and costs pursuant to 15  
8 U.S.C. § 1692k(a)(3) from Defendant.  
9  
10

11  
12 **SECOND CAUSE OF ACTION**  
13 **VIOLATION OF THE NEVADA DECEPTIVE TRADE PRACTICES ACT**  
14 **NRS 598 ET SEQ. (NDTPA), CONSTITUTING "CONSUMER FRAUD"**  
15 **UNDER NRS 41.600 ET SEQ.**

16 81. Plaintiffs incorporate by reference all of the above paragraphs of this  
17 Complaint as though fully stated herein.

18 82. The foregoing acts and omissions constitute numerous and multiple  
19 violations of the NDTPA, which incorporates the FDCPA through NRS  
20 598.0923(3).

21 83. As a result of each and every violation of the NDTPA, which incorporates  
22 the FDCPA, and constitutes "consumer fraud" under NRS 41.600(2)(e), the  
23 named Plaintiffs are entitled to damages of \$1,000 and such amount as the  
24 court may allow for all other class members, not to exceed the lesser of  
25 \$500,000 or 1 per centum of the net worth of the debt collector, pursuant to  
26  
27  
28

15 U.S.C. § 1692k(a)(2)(B); and reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendant.

84. As a result of each and every violation of the NDTPA, which incorporates the FDCPA, and constitutes "consumer fraud" under NRS 41.600(2)(e), named Plaintiffs are entitled to damages of \$12,500 pursuant to NRS 598.0973.

85. Further, as a result of each and every violation of the NDTPA, which incorporates the FDCPA, and constitutes "consumer fraud" under NRS 41.600(2)(3), the named Plaintiffs are entitled to any damages sustained, pursuant to NRS 41.600(3)(a); and reasonable attorney's fees and costs pursuant to NRS 41.600(3)(b) from Defendant.

#### **PRAYER FOR RELIEF**

Plaintiffs respectfully request the Court grant Plaintiffs the following relief against Defendant:

#### **FIRST CAUSE OF ACTION VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. §§ 1692-1692(P) (FDCPA)**

- an award of statutory damages of \$1,000.00 to each named Plaintiff, pursuant to 15 U.S.C. § 1692k(a)(2)(A), against Defendant;
- an award of any such amount as the court may allow for all other class members, not to exceed the lesser of \$500,000 or 1 per centum of the net

worth of Defendant, pursuant to 15 U.S.C. § 1692k(a)(2)(B), against Defendant;

- an award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1692k(a)(3), against Defendant; and
- any other relief the Court may deem just and proper.

**SECOND CAUSE OF ACTION  
VIOLATION OF THE NEVADA DECEPTIVE TRADE PRACTICES ACT  
NRS 598 ET SEQ. (NDTPA), CONSTITUTING "CONSUMER FRAUD"  
UNDER NRS 41.600 ET SEQ.**

- an award of statutory damages of \$1,000.00 to each named Plaintiff, pursuant to 15 U.S.C. § 1692k(a)(2)(A), against Defendant;
- an award of any such amount as the court may allow for all other class members, not to exceed the lesser of \$500,000 or 1 per centum of the net worth of Defendant, pursuant to 15 U.S.C. § 1692k(a)(2)(B), against Defendant;
- an award of any damages Plaintiffs sustained, pursuant to NRS 41.600(3)(a), against Defendant.
- an award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1692k(a)(3) and NRS 41.600(3)(b), against Defendant;
- an award of damages of \$12,500 to each named Plaintiff and members of the SubClass, pursuant to NRS 598.073; and
- any other relief the Court may deem just and proper.

**TRIAL BY JURY**

86. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiffs are entitled to, and demand, a trial by jury.

Dated: July 7, 2014

Respectfully submitted,

BY: /s/ DANNY J. HOREN

DANNY J. HOREN, ESQ.

NV BAR NO. 13153

KAZEROUNI LAW GROUP, APC

ATTORNEYS FOR PLAINTIFF

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

---

**CERTIFICATE OF SERVICE**